

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Briese Schiffahrts GMBH & Co. :
KG MS,

: Plaintiff,

08 Civ. 10975 (VM)

- against - :
:

ORDER

Agroinvest S.A., :
:

Defendant. :
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VICTOR MARRERO, United States District Judge.

The plaintiff in this action has restrained assets pursuant to the Attachment Order dated December 18, 2008 in total sums equal to the maximum amount authorized in the Attachment Order, so as to fully secure the claims plaintiff asserts in this action. The Court finds that it is appropriate to discontinue this case without prejudice. The Court shall retain jurisdiction over the matter and, upon written request by letter to the Court, either party may reopen the case for the purposes of any necessary proceedings to enforce any judgment or arbitration award rendered in connection with a resolution of the merits of the dispute that is the subject of this action, or to resolve any outstanding dispute requiring further Court intervention, as necessary.

The plaintiff shall confer with defendant to establish a separate escrow account into which to transfer funds in the amount of the attached assets or otherwise arrange for

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substitute security, to be held subject to further order of the Court authorizing disbursement of those assets. If the plaintiff is unable to arrange for either of these options, the assets attached, as set forth in Rule B(3), shall remain in the hands of the garnishee or shall be paid into the Registry of the Court, and shall be held subject to further order of the Court. The garnishee or the Clerk of the Court shall hold the restrained assets until a subsequent order from the Court authorizes the disbursement of those assets.

Accordingly, it is hereby

ORDERED that the plaintiff arrange for the assets restrained pursuant to the Court's Attachment Order dated December 18, 2008 to be placed into an escrow account or arrange for substitute security from the defendant, to be held subject to further order of the Court. If the plaintiff is unable to obtain agreement for either of these options, the restrained assets shall remain in the hands of the garnishee, or the plaintiff shall arrange to have the restrained assets paid into the Registry of the Court, and such assets will be held by the garnishee or will be held by the Clerk of the Court subject to further order authorizing the disbursement of those assets; and it is further

ORDERED that the Clerk of the Court is directed to discontinue this action without prejudice and to withdraw any pending motions and to close this case.

SO ORDERED.

Dated: New York, New York
8 April 2009



VICTOR MARRERO
U.S.D.J.